

**BOARD OF FORESTRY AND FIRE PROTECTION**

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**MINUTES**  
**BOARD OF FORESTRY AND FIRE PROTECTION**  
**August 5 and 6, 2002**  
**Sacramento, California**

**BOARD MEMBERS PRESENT :**

Stan Dixon, Chairman  
Kirk Marckwald, Vice Chair  
Mark Bosetti  
Robert Heald  
Tharon O'Dell  
Gary Rynearson

**BOARD STAFF PRESENT :**

Daniel R. Sendek, Executive Officer  
George Gentry  
Executive Officer, Foresters Licensing  
Donna Stadler, Executive Assistant  
Jim Mote, Regulations Coordinator

**DEPARTMENTAL STAFF PRESENT :**

Andrea Tuttle, Director  
Ross Johnson, Deputy Director  
Resource Management  
Dean Lucke, Assistant Deputy Director

**CALL TO ORDER**

Chairman Dixon called the August 2002 meeting of the Board of Forestry and Fire Protection to order at 8:10 a.m. in the Resources Auditorium.

**REPORT OF EXECUTIVE SESSION**

Chairman Dixon asked the Board's Counsel to report on the action items from the Executive Session.

Mr. Bill Cunningham, Deputy Attorney General and Acting Board Counsel, announced that during the Executive Session, the Board discussed all the cases identified on the Board's agenda. Action was taken on the Logan Carnell case in which the Board agreed to adopt the proposed decision of the Administrative Law Judge from the Office of Administrative Hearings (OAH). The Board also took action on the James Bollinger case where the Board ratified the stipulation proposed by the Department and Mr. Bollinger. In the case involving Donald L. Dwyer, the Board rejected the proposed decision submitted by OAH and will take further action pending receipt of the hearing transcript. Under Forester's Licensing matters, there was a

brief discussion involving Scott R.J. Feller. The Board authorized further discussions in resolution in this matter.

## **MINUTES**

Chairman Dixon asked for Board approval of the July 2002 minutes.

Members Bosetti and O'Dell provided the Secretary with minor amendments.

Mr. Richard Gienger noted that on page 16 of the July minutes, under New and Unfinished Business, in the last line the word "mitigation" should be "mediation".

**02-08-1** Mr. O'Dell moved to approve the July 2002 minutes as amended. Mr. Bosetti seconded the motion, and all were in favor.

## **CHAIRMAN'S REPORT**

Chairman Dixon thanked the Director and staff for the dedication of CDF's Aviation Management's new facility at McClellan Air Force Base. He commented that he and Member Rynearson met with the Senate Rules Committee staff in preparation for a Confirmation Hearing that was scheduled for August 8, 2002. However, the hearing has been put over until January 8, 2003.

## **REPORT OF THE DIRECTOR**

Ms. Andrea Tuttle, Director, reviewed her report in the Board's binder including the budget process. She noted that there is a 24 billion dollar state deficit. CDF has been exempt from the hiring freeze for direct fire fighting needs. However, CDF is taking other cuts and has had to forfeit some positions. The potential wildland fee for fire protection has been taken off the table at the Conference Committee. She thanked the Board for its support on the filing fees issue. The Governor's commitment to provide for fire protection and public safety throughout California resulted in an augmentation of approximately \$10 million dollars to allow CDF to justify putting a fourth firefighter on all engines in the southern portion of the state. CDF has received staffing for additional crews and a leased helicopter to be based in San Diego and to staff lookouts in the north.

Director Tuttle reported that the Proposition 12 Grants and Urban Forestry Grants, are to be awarded early allowing the awardees to get started. CDF has been working with its federal colleagues regarding the issues of resources being available just over the Nevada State line, but not being dispatched--it seems to be a communication problem. CDF is negotiating with the Forest Service on how to better deploy these resources. She noted the recent tragedies the Forest Service have had involving fatalities and their aviation equipment. The federal heavy tankers are flying with 15 percent lighter retardant loads now. The head of the Fire Committee of NASF and the Regional Forester are putting together a blue ribbon committee to examine the Forest Service aviation management policy. CDF is hoping to be able to participate in those discussions. The Regional Forester wanted to demonstrate the sophistication of the California Fire Plan and its Fire Alliance and Fire Safe Councils. He invited the Under Secretary for Natural Resources to come to California and there were many other federal agencies and resource agencies involved. There was a presentation on how the California's Fire Alliance and National Fire Plan money is being received and used. She said

that CDF is on the forefront. CDF's message was funding and the need for reliability of funding.

Director Tuttle reported that she had been inspecting CDF facilities and invited the Board to visit Boggs Mountain Demonstration State Forest to review management issues. It has a great deal of recreational use. She also toured the Swift Project in Calaveras County looking at vegetation types in the Tuolumne, Calaveras, and Mariposa County corridors. She believes that it is a terrific effort and would provide the Board with an outline of the project.

Director Tuttle commented that the Jackson State Demonstration Forest's EIR comment period has closed. There were approximately 4,000 comments, mostly in a form letter. There were about 350 distinctly different comments that CDF was addressing. The Department will provide the Board with a complete package for its review.

Director Tuttle expressed the Department's concern over the absence of a state budget, and the effect it will have on the vendors and their ability to provide services to state agencies.

### **REPORT OF THE OAK MORTALITY TASK FORCE (OMTF)**

Mr. Mark Stanley, Assistant Deputy Director for Resource Management and Co-chair of the Oak Mortality Task Force (OMTF), referred to the OMTF report in the Board's binder and reviewed it for the Board. Flights for the statewide 2002 Sudden Oak Death (SOD) aerial survey, funded by the USFS and CDF, have been completed. The survey last year covered 3000 miles looking at 60 sites and this year 14000 miles looking for the spread of SOD at 453 sites. The ground surveys, to follow up on the identified aerial sites, have begun and it is anticipated that within two months the results should be ready to report to the Board.

Mr. Stanley announced that there would be a Research Symposium in Monterey on December 16 through 18, 2002.

Mr. Stanley reported that *Phytophthora ramorum* inoculum has been found in soil collected from a hiking trail and hikers' shoes in a California park. SOD is often found in heavy recreational areas. It is important to determine if *Phytophthora ramorum* is found in soil along hiking trails and if inoculum is present. Soil cultures grown from wet samples from the Santa Cruz area are being tested. He noted that the Task Force would hold a training session for arborists on September 12, 2002. The training session will be on how to recognize and take samples and use them for research. Foresters' would not be able to take samples under federal regulations.

Mr. Stephen Jones, Deputy Chief, Pest Management, referred to the Resolution of the Declaration of a Revised Zone of Infestation for Sudden Oak Death in the Board's binder. Contra Costa and Humboldt Counties have been added to the list of declared Zone of Infestation counties, now numbering twelve.

**02-8-2** Mr. Rynearson moved to adopt the Zone of Infestation to include Contra Costa and Humboldt Counties. Mr. Heald seconded the motion, and all were in favor.

Mr. Richard Gienger wanted to know if the infestation in Redway was on Park Ranger land. He then wanted to know what was meant by putting a circle around Redway.

Mr. Mark Stanley, Assistant Deputy Director for Resource Management, commented that the infestation was throughout Redway and an eradication plan was not feasible. The circle would be around the infested areas and within the circle current regulations would apply.

Mr. Mark Rentz, California Forestry Association (CFA), inquired as to how the other departments are responding to this issue, such as Cal-Trans and Parks.

Mr. Stanley indicated he did not have a detailed update on what other departments were doing, but he will provide that information. The OMTF is trying to develop Best Management Practices training to define what soil is and when it becomes soil. OMTF is also trying to develop some practical means to deal with these areas and provide that information to other departments. He indicated that he would contact other agencies and have a report next month.

### **REVIEW AND CONSIDERATION OF COUNTY ACTION PLANS ADDRESSING SUDDEN OAK DEATH HAZARD TREE REMOVAL AND DISPOSITION**

Mr. Stephen Jones, Deputy Chief, Pest Management, referred to the Board's binder and the report on the proposed action plan for Monterey County and the letters of support. The California Oak Mortality Task Force recommends that the Board of Forestry and Fire Protection approve the "Monterey County Sudden Oak Death Hazard Tree Assessment, Removal, and Restoration Plan" as submitted.

**02-08-3** Mr. Bosetti moved to approve the plan submitted by the County of Monterey. Mr. Heald seconded the motion, and all were in favor.

Mr. Rynearson asked for a brief discussion as to the extent of the infestation in Monterey County and how to implement the program.

Mr. Ken Corbishley, Monterey County Chief Deputy Agricultural Commissioner, commented that State Parks and the U.S. Forest Service property in Big Sur were the primary locations.

Mr. Rynearson wanted to know if State Parks were posting signs to clean shoes and tires.

Mr. Corbishley indicated that the posting of signs to alert people that they are entering an area that has SOD and not to remove any plants or wood from the area was being looked at. Also, the County is working with State Parks to post signs in the immediate area.

Mr. Rynearson commented that the monies would be used on State Parks and not on Forest Service lands.

Mr. Corbishley indicated that was a correct statement.

### **REPORT FROM OTHER FEDERAL AGENCIES, INCLUDING; the USDA FOREST SERVICE, U.S. FISH & WILDLIFE SERVICE, and U.S. EPA**

Ms. Christine Nota, U.S. Forest Service (USFS), reported on the disastrous fire season and the loss of the three firefighters in an engine rollover on the Klamath National Forest. The investigation of the incident is ongoing. The 10-year average in federal acres burned is around 2 million to-date and there have been approximately 5.5 million acres burned. She reviewed those fires for the Board.

Ms. Nota said that the USFS budget was now set for \$200 million dollars and that leaves a huge gap. Timber sale monies are no longer available so the money has to come from other program accounts.

Ms. Nota commented that the Framework was still under review. The most difficult issue is owl habitat. She announced that the Sierra Science Symposium is scheduled for October 8-10, 2002, at Lake Tahoe. Dave Tenney, Undersecretary, met locally with the Fire Alliance, and was impressed with California's collaboration efforts.

Mr. Rynearson wanted to know about the federal freeze on research funds.

Ms. Nota indicated that those funds were part of the 5.5 million dollars for fire fighting.

Mr. Joe Blum, National Marine Fisheries Service (NMFS), referred to the Board's letter regarding a briefing on fish population surveys and indicated that there would be a response soon. The NMFS expects to have its findings on the Green sturgeon out by the Board's next meeting. The only known breeding population is at mouth of the Klamath. PALCO and wildlife agencies reached an agreement on a Habitat Conservation Plan. The watershed analysis on Freshwater creek is complete and NMFS would like to brief the Board on the dramatic changes.

## **PUBLIC FORUM**

Mr. Richard Gienger wanted to know if the NMFS presentation was going to be before the full Board.

Chairman Dixon said that it would.

Mr. Gienger said that the North Coast Water Resources Control Board (NCWRCB) is getting closer to having a panel of experts to look at issue including the rate of harvest for the five North Coast watersheds. A report from these experts is expected some time in October. He expressed his disappointment that there was no representative from the Water Board available to discuss the waiver issue. He indicated that there was going to be a scoping session on waivers for the North Coast Region in September. He commented that the Road Management Plan discussion in Committee was interesting, but there is a need for continued discussion of the State Water Board waivers issue. He believes that the *Ad Hoc* Committee needs to have a more focused discussion on the Road Management Plan. He expressed concern over the projects on the North Coast and suggested that they be spread out over time in the Mattole and Gualala drainages.

Mr. Mark Rentz, California Forestry Association (CLFA), referred to the comment from Christine Nota regarding timber sales money. The Knutson Vanderberg Act (KV), was designed to generate a trust fund account out of timber sales for the reforestation and management of timber stands on federal lands in an effort to create stands more resistant to fire. He indicated that the reason for the depleted funds is that the Forest Service no longer harvests timber on public lands, so dollars are not replenished in the KV fund for reforestation.

## **CONTINUED REVIEW OF THE PROPOSED MODIFICATIONS TO THE BOARD'S CURRENT FIRE PROTECTION POLICIES**

Chairman Dixon introduced the topic.

Mr. Bosetti provided an overview of the current Fire Protection Policies for the Board. He indicated that the Committee endeavored to consolidate applicable items with the conditions of today. He reviewed the proposed revisions with the Board. The Committee recommends approval of the proposed modifications.

Chairman Dixon commented that the recommendation at last month's meeting was that the Board review the policies again then come back to adopt or to send back to Committee.

Mr. Heald indicated that the changes are heading in the right direction. However, there are some old terms and new terms.

Mr. Bosetti commented that the recommendation from the Board would then be for the Committee to review those areas.

Mr. Heald reviewed some other areas and suggested further evaluation.

Chairman Dixon referred the item back to Committee for review.

Mr. Mark Rentz, California Forestry Association (CFA), wanted to know if the public would have an opportunity to review and comment. He reviewed areas of concern for the Board.

Mr. Bosetti commented that it would be important for CFA to bring its concerns to Committee for discussion.

### **CONTINUED REVIEW OF THE CURRENT LATOUR DEMONSTRATION STATE FOREST MANAGEMENT PLAN**

Chairman Dixon introduced the topic. He indicated that during the Board's last meeting there were questions that the Department was going to look into.

Mr. Christopher Rowney, Deputy Chief of State Forest & Nursery Programs, indicated that the Department was still working on recommendations by Member Heald, and Member O'Dell indicated that he wanted more time to review the proposed modification of the Plan. The Department would like further direction from the Board.

Mr. O'Dell commented that he has had time to review the document and believes it will be an important piece of work. However, he was not ready to provide direction and suggested that the Department continue working in the direction it is headed.

Chairman Dixon wanted to know what the Department's timeframe was.

Mr. Rowney indicated that they were not sure because there is a lot of activity on all the state forests. It is anticipated that the document could be ready within the next two months, but it still needs to go through the Negative Declaration process.

Mr. O'Dell believes it would be of benefit to the record to have, in writing, what kind of efforts are being put into the revisions and the time allotted to state forests.

Mr. Rowney commented that there is an annual report, however, last year there was none. This is something that is typically done in September or October. The Department agreed to do a quarterly review of the activity on its Demonstration State Forests.

Mr. Dave Driscoll, Region Chief, commented that within his monthly reports to the Resource Protection Committee there is an update on each of the state forests.

## **STATUS REPORT ON THE PREPARATION OF THE DRAFT JACKSON DEMONSTRATION STATE FOREST MANAGEMENT PLAN AND DRAFT ENVIRONMENTAL IMPACT REPORT**

Chairman Dixon introduced the topic.

Mr. Rowney commented that the draft responses to comments have been developed. A number of the comments were in a form letter. All of those issues will be addressed.

Chairman Dixon wanted to know if it would be ready for the September meeting.

Mr. Rowney was hesitant to provide a timeline, but indicated they will work with Board staff.

## **REVIEW OF NEVADA COUNTY'S PROPOSED LOCAL FIRE SAFE ORDINANCES FOR CERTIFICATION IN LIEU OF STATE REGULATIONS**

Chairman Dixon introduced the topic and comment that questions had been asked regarding the proposed certification last month.

Mr. Heald indicated that his questions regarding 4290 and 4291 had been answered and he fully supports this proposed certification.

Mr. Marckwald commented that he was satisfied and was in support of the package.

**02-08-4** Mr. Bosetti moved to adopt the application for certification of Nevada Counties Ordinance to meet the minima of Section 4290 of the Public Resources Code and the SRA Fire Safe Regulations. Mr. Heald seconded the motion, and all were in favor.

## **REVIEW OF PLUMAS COUNTY'S REQUEST TO MODIFY ITS CURRENT BOARD CERTIFIED LOCAL FIRE SAFE ORDINANCE**

Mr. Bosetti commented that Plumas County already has Board Certification, but are requesting adoption of a change in definition for Class 11 Roads. It would be a word change from Class 11 Roads to Class 11 Driveways.

**02-08-5** Mr. Bosetti moved to adopt that proposed change. Mr. Heald seconded the motion, and all were in favor.

## **REPORT OF THE ADVISORY COMMITTEES**

### **CALIFORNIA FOREST PEST COUNCIL (CFPC)**

No report this month.

### **RANGE MANAGEMENT ADVISORY COMMITTEE (RMAC)**

Mr. Bosetti reported that RMAC would meet next week in Sacramento.

## **MONITORING STUDY GROUP (MSG)**

Mr. O'Dell, Chair, reported that the MSG had not met since the last Board meeting. The next MSG meeting is scheduled for September 17, 2002, in Howard Forest. One of the main agenda items will be a presentation by Cajun James, Sierra Pacific Industries; Dr. Lee Benda, Earth Systems Institute; and Dr. Morgan Hannaford, Sierra College on large woody debris, sediment and macroinvertebrate data for the Southern Exposure Research site located in the Antelope Creek watershed in Tehama County.

Mr. O'Dell noted that the Hillslope Monitoring Program contractor had completed 14 THPs to-date. The registered geologist had to leave the project due to a change in educational plans, therefore, the project has been delayed. The Contractor is searching for an acceptable replacement.

Mr. O'Dell commented that little progress had been made on the database queries for the Hillslope Monitoring Program's Report to the Board. The MSG is hopeful that it will have sufficient work completed by its next meeting to provide a presentation on the preliminary development of the updated Hillslope Monitoring Program to the Board.

Mr. O'Dell said that there has been a problem getting a complete 12.5 percent random sample of Modified Completion Reports on completed THPs. A complete random sample is important to the statistical validity of the results. MSG received a preliminary analysis of the WLPZ canopy data collected to-date at its last meeting and will receive an additional preliminary analysis at its next meeting.

Mr. O'Dell reported that CDF had submitted project and contract proposal sheets for approval of two THP-scale Instream Effectiveness Monitoring projects; one with Campbell Timberland Management in Fort Bragg, and the other with SPI in the Sierra/Cascade region. Developing cooperative Instream watershed monitoring projects remains a high priority in the MSG, CDF, and Board's Long-Term Monitoring Plan. This topic will be discussed further at the September MSG meeting.

## **PROFESSIONAL FORESTERS EXAMINING COMMITTEE (PFEC)**

Mr. George Gentry, Executive Officer for Licensing, reported that the PFEC met on July 18, 2002. The States of Maine and North Carolina have approached California for possible reciprocal licensure. He responded to those requests and discussions are continuing. The preliminary demographics and the results of the April exam were also discussed.

Mr. Gentry noted that on August 29, 2002, there would be a closed session of the PFEC to discuss the October RPF exam. Renewals are ongoing and delinquency notices will be going out. He requested Board action regarding the request for license withdrawal by Robert Henley, RPF 1458.

**02-08-6** Mr. O'Dell moved to accept the request for license withdrawal of Robert Henley, RPF 1458. Mr. Ryneason seconded the motion, and all were in favor.

Mr. Gentry noted the passing of James Mallory, RPF 1176.



## **REPORT OF THE STANDING COMMITTEES**

### **INTERIM COMMITTEE**

Mr. Heald reported that the Committee continued its discussion on stocking standards and retention standards for deciduous hardwoods. The Department of Fish and Game (DFG) agreed to provide the Committee with additional literature references and citations in support of the DFG proposal. There was also a report from DFG about the Sensitive Species Working Group. The Department provided some information from various sub-committees of the Stewardship Committee.

### **RESOURCE PROTECTION COMMITTEE (RPC)**

Mr. Bosetti, RPC Chairman, reported that the Committee received reports from both Region Chiefs and that those reports were in the Board's binder. The DFG provided the Committee with an update on the status of MOU revision that is in process regarding the Pre, Post, and During Fire activities. DFG also reported that there would be a 2002 Fire Conference to be held in San Diego in December. RPC requested that DFG provide the Web address and the registration form for the Board members. There was a report from the Statewide Fire Safe Council. He introduced Richard Hayes as a new member representing the Fire Safe Council.

### **AD HOC WATERSHED COMMITTEE**

Mr. Rynearson reported that the Committee continued its discussion of Road Management Plans. There were three points brought up that will be discussed further next month involving options to meet CEQA requirements for programmatic 1600 permits, the goals of Road Management Plans, and what elements should be included in Road Management Plans. The Committee reviewed the proposal for wet weather operations presented by the National Marine Fisheries Service in July. That discussion will be the Committee's first agenda item next month.

## **REPORT OF EXECUTIVE OFFICER, INCLUDING PROPOSED STATE AND FEDERAL LEGISLATION**

Mr. Daniel Sendek, Executive Officer for the Board, provided the Board with an update on Legislation. He reported that on July 17, 2002, he attended the State Water Board's workshop relative to the SB 390 Waivers. It was a well attended all day workshop, which consisted of agency and departmental presentations followed by public comments. He expressed concern regarding the Regional Boards' Executive Officers inaccurate characterization of some of the Forest Practices Rules relevant to wet-weather operations, Basin Plans and Emergency operations following fire. In concurrence with the Chairman, he sent a letter to the State Board with copies to the Regional Boards clarifying some of their statements and regulatory citations. The North Coast Board is scheduled to meet in Eureka on August 22, 2002. On their agenda will be an update on the implementation of the SB 390 Waivers. He commented that, if possible, he would attend that meeting, or get a copy of the staff report of the meeting and report to the Board. The State Water Board is planning a scoping session in September.

Mr. Sendek indicated that he has been attempting to compile all fire policies, regulatory authorities, and responsibilities of the Board. He hopes to have that information for the Board's review in the near future.

Mr. Sendek announced that the September meeting would be September 10, 11, and 12 in Visalia. A field trip to Mountain Home Demonstration State Forest to review its current management plan is being organized. There will also be a component dealing with the Sequoia National Monument with Forest Service involvement.

### **HEARING TO CONSIDER AMENDMENT OF REGULATIONS SPECIFYING MINIMUM STOCKING LEVELS FOLLOWING TIMBER HARVESTING**

Chairman Dixon introduced the topic.

Mr. Jim Mote, Regulations Coordinator, provided an overview and commented that it was last noticed on June 21, 2002, for definition of decadent and deformed trees. He listed the rule amendments for the Board.

Mr. Jerry Ahlstrom, Staff Chief, referred to the Director's letter of support in the binder. The Department is concerned about mistletoe-infected trees. The retention of mistletoe-infected trees will provide a significant inoculum source for the new stand being regenerated under the residual trees. The Department would like for the Board to consider all the issues in its letter.

Mr. Heald wanted to know where else in the regulations are there requirements to consider issues of insects and diseases related to the health of forest standards.

Mr. Ahlstrom replied that Section 912.7 requires RPFs, when submitting harvest plans, to consider forest health. The Department could rely on that section for each THP it reviews. He commented that the Department would like to know where the trees are.

Mr. Heald indicated that he was comfortable that RPFs are capable of dealing with the mistletoe issue.

Mr. Marty Berbach, Department of Fish and Game (DFG), referred to the letter of support from DFG and indicated that he would be available for questions.

Mr. Ryneerson wanted to know if DFG would be comfortable with the suggested change by CDF.

Mr. Berbach indicated that DFG would be okay with the change by CDF. However, he wanted to know if the rule was for all trees or just conifers.

Mr. Ryneerson commented that, as it is in the proposed package, it is specific to conifers.

Chairman Dixon wanted to know if the change suggested by CDF would require a 15-Day Notice.

Mr. Bill Cunningham, Deputy District Attorney and Board's Counsel, commented that it is possible that the Department's proposal would require another 15-Day Notice. He asked for time to revisit the proposal before commenting.

### **Public Comment**

Mr. Roy Richards read his written comments into the record. He believes that the proposed rule is a step in the right direction.

Mr. Rynearson wanted to know what Mr. Richards was suggesting for hardwoods.

Mr. Richards commented that the square footage of hardwoods should not be considered in the stocking approach.

Mr. Peter Ribar, Campbell Timberland, suggested that the Board consider a change on page two, line one, so that it refers to site II & III separately. He also suggested that the Board allow more credit for smaller decadent trees.

Mr. Richard Gienger spoke in support of the proposal, and commented that it should be consistent with the Forest Practice Act.

Mr. William Hultgren, California Licensed Foresters Association (CLFA), summarized the CLFA letter of August 5, 2002. He noted that Section 913.11 (c) 1 & 2 speaks to the necessity for meeting minimum stocking and basal area standards only with group "A" species. He believes that a brief poll from the Forest Practice Chiefs in the various regions would show that this is being handled on an *ad hoc* basis in the field already. He urged the Board to return this item back to the Committee.

Mr. Dan Weldon, Forest Landowners of California (FLOC), commented that he endorsed comments by Mr. Richards, believing that it will help those with NTMPs.

**02-08-7** Mr. Heald moved to close the public hearing. Mr. Bosetti seconded the motion, and all were in favor.

Mr. Heald expressed his concerns relative to timberland productivity. He believes that the intent of the Forest Practice Act, in terms of timberland productivity, is the productivity of the ecosystem as a whole not just with respect to coniferous wood. He believes that it is not true that individual trees constitute a genetic risk to the population of trees. He does not want to reduce size limits that are applicable to seed trees. He spoke in support of the recommendations, by CLFA, that modifications be made to the findings should this package be approved.

Mr. Rynearson commented that the change to page one; line 17, making that statement consistent with the Forest Practice Act is a good change. Also, he believes that the suggested change on page two, line one, so that it refers to sites II & III separately is a good one.

Mr. Heald also supported the change on page one, but not the change on page three moving sites I & II. He would like to leave that as is, which would not require another notice.

Mr. Cunningham commented that he believes that the proposed change by CDF would require an additional 15-Day Notice. He then referred to page one, line 17 and the concern that the 12 inch reference is left out. If the Board wishes to change that, it would have to be done in 912.7 and all of the additional subsections that contains that same language.

Chairman Dixon commented that Mr. Richards referenced that the Legislative definition of "countable trees" as specifically stated in PRC 4528(b) takes precedent and invalidates any rule the Board may write redefining trees that are accountable to meet any stocking standards.

Mr. Heald read from the proposed rule language, which reads, "standards that are higher than the Act", which he commented that the Board is allowed to do, "those higher levels may be met by counting snags or decadent trees."

Mr. Cunningham noted that in PRC Section 4528(b), it provides that a countable tree means a tree that can be used in calculating the degree of stocking, and one of the conditions is that the tree be alive and healthy. He commented that he believes that the Section applies to minimum standards of stocking.

Mr. O'Dell wanted to know if Counsel's comments were interpretive.

Mr. Cunningham quoted from 4561.1 of the PRC for the Board. The emphasis is on minimum requirements. He believes that the answer is that the statute itself does not give any further discussion. The question before the Board is whether or not this consideration of decadent trees is going to be used to go beyond the minimum standards. If it is, that is within the Board's authority as long as it does not go below the minimum standards.

Mr. O'Dell wanted to know if dead trees could be used for stocking.

Mr. Cunningham commented that they could not be stocking trees.

Mr. Bosetti expressed concern relative to mapping and locating trees. He does not see this as an incentive and does not believe people will use this rule if they have to identify each individual tree.

Mr. Heald concurred with Member Bosetti.

**02-08-8** Mr. Heald moved to adopt the language as written with the change on page one, line 17 and subsequent sections for the other districts so that we have the change suggested by Mr. Richards, and all the language to be the same and direct staff to revise the findings. There was no second.

Mr. Marckwald wanted to know what Member Heald did with the Department's suggestion.

Mr. Heald commented that he did not incorporate that because he believes that it is handled by existing language and regulation.

**02-08-9** Mr. Marckwald moved to amend Member Heald's motion to include the Department's requested change on 912.7 requiring a 15-Day Notice. Mr. Heald seconded the motion, and a roll call vote was taken:

Bosetti	No
Heald	Aye
Marckwald	Aye
Rynearson	No
O'Dell	Aye
Dixon	Aye

Motion passed by a 4-2 vote.

There was a procedural question for Counsel.

Mr. Cunningham indicated that a majority vote was all that was required for re-noticing for subsequent consideration.

Mr. O'Dell wanted to know if the Board was restricted to just the portion on the package that was discussed.

Mr. Cunningham commented that the re-noticing is to allow the public the opportunity to comment on the changes. It does not commit the Board to any of those changes, or to having to vote on those changes. The Board can choose to amend the package again, to add additional items, or discuss items that were not previously discussed. The full package will come before the Board at its next meeting.

### **NEW AND UNFINISHED BUSINESS**

There were no comments.

### **ADJOURNMENT**

Chairman Dixon adjourned the August 2002 meeting of the Board.

Respectfully submitted,

ATTEST:

Daniel R. Sendek  
Executive Officer

Stan Dixon  
Chairman

Copies of the attendance sheet can be obtained from the Board Office.